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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

(Second Reading 6-30-09)

Date: May 5, 2009

Amended
Agenda Item No. 7(K)

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Ordinance No. 09-60

Subject: Ordinance Amending the Economic Stimulus Plan (ESP) Extending the Sunset Provision and Including Capital Projects and Purchases of Goods and Services Funded by the American Recovery and Reinvestment Act

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance amending the County's Economic Stimulus Plan (ESP) Ordinance 08-92, extending the sunset provision to January 2013 and including the capital projects and the acquisition of goods and services funded through the American Recovery and Reinvestment Act (ARRA). The extension of the sunset provision will help to accommodate the addition of new long term projects to the ESP list which may be added by resolution, and any future capital projects and purchases funded as part of the ARRA.

Scope

This item has countywide significance as there are planned projects throughout Miami-Dade County.

Track/Record/Monitor

The Office of Capital Improvements (OCI), Johnny Martinez, Director, and Miriam Singer, Director of the Department of Procurement Management, will be the monitoring entities for the projects that are implemented under the proposed amendments to the ESP Ordinance.

Fiscal Impact/Funding Source

This item does not impact any funding source but it does impact the County's ability to stimulate the local economy.

Delegation of Authority

This ordinance would continue the authority granted the County Mayor or the Mayor's designee by the ESP Ordinance (08-92) and add the authority to implement capital projects and procure goods and services funded through the ARRA.

Background

On July 17, 2008, the Board of County Commissioners approved the County's ESP Ordinance 08-92, along with a corresponding list of projects totaling approximately $625 million. This ordinance included a one-year sunset provision. To date, nearly $330 million in projects from this original list have been expedited and the ESP Program continues to move projects forward at an accelerated pace. Feedback from the engineering, architecture and construction industries regarding the ESP has been overwhelmingly positive. Recently, members of the Board have requested to add projects that are ready- to-go to the County's ESP list. In many cases, the advertising and award dates for these projects are anticipated to fall outside the current July 2009 sunset date.

Further, the AARA includes funding for projects in Miami-Dade County that will require a fast spend-out rate. To this effect, the proposed amendments will allow for the implementation of capital projects and the acquisition of goods and services funded through the AARA to be purchased through the

ESP Program. It is anticipated that federal stimulus funds for infrastructure projects and the purchase of goods and services will need to be appropriated with 90 to 120 days. The extension of the sunset provision and the inclusion of capital projects and goods and services purchased with AARA funds puts the County in the position to act swiftly to put federal funds to use immediately.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Amended Agenda Item No. 7(K)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Mayor's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(K)
6-30-09

ORDINANCE NO. **09-60**

ORDINANCE EXTENDING THE ECONOMIC STIMULUS ORDINANCE FOR AN ADDITIONAL PERIOD, ADDING TO THE SCOPE OF THE ORDINANCE CAPITAL PROJECTS AND THE PURCHASE OF GOODS AND SERVICES FUNDED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA); AMENDING SECTION 2-8.2.7 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AN EFFECTIVE DATE AND A SUNSET

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Section 2-8.2.7 of the Code of Miami-Dade County, Florida is hereby amended as follows:[1]

Sec. 2-8.2.7 Economic Stimulus Ordinance

(1) Policy: This ordinance, to be known as the Economic Stimulus Ordinance, is intended to provide an expedited process to award >>certain<< contracts [[~~related to certain capital development projects~~]] with the express purpose of stimulating the local economy.

(2) Scope: This Section, and the expedited processes set forth herein, shall be applicable to the processing, design, and construction of those capital improvement projects specifically identified by resolution of the Board of County Commissioners >>or capital projects funded in whole or in part through the American Recovery and Reinvestment Act ("ARRA")<< (the [["~~Economic~~]] >>"Capital"<< Stimulus Projects. The Board of County Commissioners may from time to time, by subsequent resolution add or delete projects from the list of Capital Stimulus Projects to which this Section applies. All [[~~Economic~~]] >>Capital<< Stimulus Projects must have been approved as part of the Annual Proposed Resource Allocation and Multi-year Capital Plan. >>This Section shall also be applicable to contracts for the purchase of goods or services funded in whole or in part through ARRA (the "Economic Stimulus Purchases")<<.

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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(3) All actions taken under this ordinance shall be subject to review by the Office of Strategic Business Management to ensure adequate funding for each project and that appropriate operational and maintenance funding is in place for the foreseeable future and review by the Office of Capital Improvements >>for Capital Stimulus Projects and the Department of Procurement Management for Economic Stimulus Purchases<< to ensure compliance with contract documents and all applicable resolutions, ordinances, and statutes.

(4) Notwithstanding any other provision of the Code of Miami-Dade County to the contrary, the Mayor or his/her designee shall have the following authority with respect to [[~~Economic Stimulus Projects~~]] >>contracts within the scope of this Section <<:

(a) to issue bid and proposal documents including addenda thereto;

(b) to receive, open and review bids and proposals;

(c) to appoint standing selection committee and negotiation committee members to obtain professional services in accordance with Section 2-10.4 of the Code of Miami-Dade County and Section 287.055 of the Florida Statutes, provided each such committee shall contain, whenever possible, representation from the user department;

(d) to award or reject bids for contracts including >>, but not limited to,<< professional service agreements, construction contracts >>and contracts for the purchase of goods and services<< and issue [[~~the~~]] Notice >>s<< to Proceed [[~~on each~~]] where:

(1) >>for Capital Stimulus Projects<< the award value of the contract and operational considerations have been reviewed and approved by the Office of Strategic Business Management; and

(2) >>for Capital Stimulus Projects<< the base value of a recommended award does not exceed the base estimate by more than ten (10) percent; and

(3) the contractor >>,vendor<< or consulting firm receiving the award is in good standing with the County including but not limited to: no outstanding debts; demonstrated acceptable past performance; and has submitted required insurance, bonds, affidavits and documentation provided for by the solicitation; and

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(4) none of the bidders have filed a timely bid protest; and

(5) all awards are subject to ratification by the Board of County Commissioners at the next available meeting and contracts >>for Capital Stimulus Projects<< approved under this authority must contain a Termination for Convenience clause,

(e) >>for Capital Stimulus Projects<< negotiate and settle contractor claims, and issue change orders for additional work under contracts and amendments for professional services agreements where:

(1) the change order or claim does not increase the contract amount, including contingencies; and

(2) the contingency allowance established in accordance with Section 2-8.1(h) shall be utilized to ensure minimal disruption in work flow and shall be documented on the appropriate contingency authorization draw. Change orders shall be submitted to replenish the contingency account in a timely manner; and

(3) the limitations provided in (4)(e)1 above shall not apply to any change order or amendment related to emergency actions impacting environmental remediation, public safety, health requirements or recovery from natural disaster; and

(5) All actions taken by the Mayor or his/her designee under this Section shall not require review by any Committee, but shall be submitted to the next available Board of County Commissioners meeting for ratification. Awards that do not meet the requirements of Section 4(d) above shall not require Committee review but shall be submitted to the next available meeting of the Board of County Commissioners for approval. >>The authority delegated to the Mayor or the Mayor's designee pursuant to this Section shall be in addition and not in derogation to other delegations of authority set forth elsewhere in this Code. <<

(6) Special exemptions: This process shall be modified to ensure full conformance with any special provisions or review processes established by the Board. As such, any proposed County contract for a project included in the TIP approved by the MPO that is funded in whole or in part by proceeds of the Charter County Transit System Sales Surtax authorized by Article XVI of Chapter 29 of the County Code, the Mayor or his/her designee shall have the authority to advertise and issue bid or proposal documents for such contracts where the bid or proposal documents expressly provide that no award shall be effective and no contractual relationship

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shall arise with the County unless and until ratified by the County Commission and that ratification is approved by the Citizens' Independent Transportation Trust or re-affirmed by the County Commission as provided in subsection (e) of Section 29-124 of the County Code, and the authority to issue notices to proceed after award for such contracts shall be limited to those instances where the County Commission has ratified the award and the Citizens' Independent Transportation Trust has approved the Commission's action or, if the Trust disapproves such Commission action, the Commission has re-affirmed same as provided in subsection (e) of Section 29-124 of the County Code.

(7) This ordinance shall sunset >>July 1, 2011.<< [[~~one year after its effective date. The County Manager shall prepare an annual report for consideration by the Board prior to renewal.~~]]

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and, if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: **June 30, 2009**

Approved by County Attorney as to form and legal sufficiency: _____

Prepared by:

Hugo Benitez